

246678

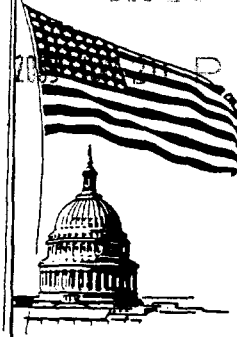
NMCA National Marine Charter Association

Hon. Olympia J. Snowe
Chair, Oceans, Fisheries and
Coast Guard Subcommittee
United States Senate
Washington, DC 20510-1903

Hon. Frank A. LoBiondo
Chair, Coast Guard and
Maritime Transportation Subcommittee
U.S. House of Representatives
Washington, DC 20515-3002

Docket Management Facility
[USCG-2001-8773] - 42
U.S. Dept. of Transportation
400 Seventh St., S.W., Rm. PL-401
Washington, DC 20590-0001

DEPT. OF TRANSPORTATION
DOCKETS



The marine charter industry requests reconsideration of a proposed U.S. Coast Guard requirement to implement new post-accident alcohol testing measures following a serious marine incident. All vessels would be required to carry alcohol screening devices on board at all times, and the crew would need to be trained in their use. This would impose a significant burden on all marine firms, especially small operators. This notice [USCG-2001-8773] was published on February 28, 2003 to invite public comment. I oppose this proposed rule as written for the reasons stated below and seek changes to avoid the negative impact that it would have on the marine charter industry and my business.

REASONS FOR OPPOSITION:

- 1. Small Business Impact:** The Coast Guard greatly underestimated the cost of this requirement on small businesses, and even acknowledges: "...the cost of the less expensive ASDs [Alcohol Screening Devices] could still be too expensive for the smallest commercial vessel operators and owners." Small businesses will face the constant and costly cycle of purchase and disposal of the devices as their shelf-life ends.
- 2. Congressional Intent:** Congress' intent in the Coast Guard Authorization Act for FY 1998 and 1999 was for the U.S. Coast Guard, and not small firms, to conduct post-incident alcohol testing. The Coast Guard is the lead marine incident response agency responsible for the monitoring and enforcement of prompt compliance with federal testing rules. Coast Guard vessels are equipped, and the crew is already trained to conduct the tests.
- 3. Device Quality Control and Suitability for the Marine Environment:** This requirement will not yield accurate alcohol tests because use of ASDs are impractical without standards of selection and usage, and storage in the hostile marine environment will lead to a rapid disintegration in the accuracy of the devices.
- 4. Collection and Test Administration Control:** The Coast Guard does not address how to ensure quality control and objectivity in testing. For instance, what happens when a Captain must self-administer the test because he is the only crew aboard the vessel?
- 5. The Proposal is Only a Partial Solution:** Use of ASDs, which are capable of producing a false negative result, provides only an indication of the presence of alcohol and not a quantitative measure. Only with proper training for the test administrator, and a confirmation test by a more expensive testing device, can the certainty of the results be accurately determined.

I want to urge you to support revising this rule so that the Coast Guard itself conducts post-serious marine incident alcohol testing in cases where those involved are unable to be tested on land by trained professionals within the stated time limit. This will ensure that adequately trained professionals correctly administer the test, collect and analyze the results, and provide the accuracy necessary to maintain the integrity of the chemical testing program. Additionally, it will remove a costly burden from small marine firms that can ill afford it, as the Coast Guard itself has acknowledged.

Sincerely,

CAPT Richard G. Spoth

Signature: _____

Name: RICHARD G. SPOTH

Business: LAKE ERIE DUNE CHARTERS

City: ARCOLA

State NY Zip Code: 14006

PLEASE FILL OUT, SIGN AND RETURN TO NMCA IN THE ENCLOSED REPLY ENVELOPE BY JUNE 10, 2003 IN ORDER TO BE PRESENTED TO CONGRESS AND THE U.S. COAST GUARD